

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

G VON THOMAS,	§	
	§	
	§	
Appellant,	§	
	§	
v.	§	Civil Action No. 3:09-CV-1282-L
	§	
CARL MATHENIA and PAUL A SCOTT,	§	
	§	
Appellees.	§	

MEMORANDUM OPINION AND ORDER

On July 7, 2009, the bankruptcy appeal filed by Appellant G Von Thomas was transmitted to this court. On July 9, 2009, the court received a letter stating that the appeal was entered on its docket on July 9, 2009, and directing the parties to Local Bankruptcy Rule 8009.1 regarding the time for serving and filing their briefs.

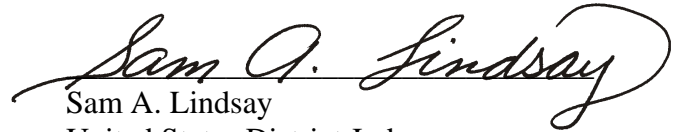
Local Bankruptcy Rule 8009.1 requires that Appellant file a brief within twenty-one days after entry of the appeal on the docket of the district court pursuant to Rule 8007 of the Federal Rules of Bankruptcy Procedure. That twenty-one day period concluded on July 31, 2009. To date, no brief has been filed by Appellant, nor has he sought an extension of that deadline or leave to file his brief out of time.

The Fifth Circuit Court of Appeals has held:

In reviewing actions taken by a district court in its appellate role, we affirm unless the court has clearly abused its discretion. Bankruptcy appeals have frequently been dismissed for the appellant's failure to comply with the duty of diligent prosecution, and we have dismissed civil appeals for failure of prosecution when the appellant's brief was not timely filed.

In re Braniff Airways, Inc., 774 F.2d 1303, 1305 (5th Cir. 1985) (footnotes omitted); *see also In re McKenzie*, 213 F.3d 639, 2000 WL 554944, *1 (5th Cir. 2000). Appellant has failed to comply with the required procedural rules, and the court determines that he has not been diligent in prosecuting this appeal.* It is not incumbent upon the court to ensure that the parties before it follow the relevant procedural rules. Accordingly, the court **dismisses** this appeal **without prejudice** for want of prosecution.

It is so ordered this 25th day of February, 2010.


Sam A. Lindsay
United States District Judge

*Additionally, the July 7, 2009 transmittal of the appellate record indicates that the record was deficient because Appellant did not pay the required Appeal filing fee. The docket sheet does not establish that this deficiency was ever cured. This serves as another example of Appellant's failure to abide by required procedural rules and further evidences his lack of diligence in prosecuting this appeal.